



## **ICELAND**

### **Ministry for Foreign Affairs**

Statement by

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Minister Counsellor

### **Marine Genetic Resources, including questions on the sharing of benefits**

(under item 6)

at the meeting of the

Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction – second session

New York

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Madam Facilitator.

We will now discuss Part 3 of the President's Guide to Negotiations, regarding Marine Genetic Resources, including the sharing of benefits.

In the first paragraph of this part, Iceland supports those delegations who want to delete the last part of the paragraph, stating that "the provisions of this Part shall prevail" in case there is inconsistency with UNCLOS. We would also be in favor of moving this paragraph to a General part at the beginning of the document.

Under Part 3.1 on Scope, Iceland has the following comments:

*Geographical scope* - we would support moving this part to a General part at the beginning of the document, as the delimitation of the geographical scope of the instrument applies to the entire instrument, but not only to MGRs.

Under Point (1) we have a preference for Option I + suboption A: "Of the high seas and the Area" but could be flexible towards suboption B if the words "Accessed" is deleted.

Under Point (2), letterpoint (a) we support Option B, with the last sentence of Option A added, i.e. "This part shall be interpreted and applied in the context of and in a manner consistent with the Convention." We also support moving this part to a General part of the instrument.

Under letterpoint (b), which deals with the sensitive issue of compatibility measures, we prefer Option B- No text. If a paragraph on this matter is going to be included we need fuller information on what compatibility exactly means in this instrument.

Under letter point (c) we support Option A regarding consultations and consent of coastal states.

Under point (d) we are in favour of Option A.

*Material Scope* – This part of the instrument is of fundamental importance. We need to keep in mind that the future BBNJ instrument has two other older siblings, i.e. the Part XI Agreement and the UN Fish Stocks Agreement, both of who are an implementing agreements under UNCLOS, just like the BBNJ instrument will be. The BBNJ instrument has to adapt to their existence and shall not undermine them, duplicate their subject matter or infringe upon their content. In clear terms this means that fish that falls under the fisheries management regime under UNFSA falls outside the material scope of the BBNJ instrument. We are supportive of any approach which makes this absolutely clear. If a usable wording referring to fisheries management regimes could be found, we could consider that, but as regards the current options in the documents on the Material Scope regarding we have the following position:

Point (3) – letterpoint (a) - we support the core of Option I, which refers to „the use of fish and other biological resources for research into their genetic properties.“ However, we believe this is not a proper way of defining the material scope of an instrument which first and foremost deals with MGR's rather than fish. Our proposal would be to rephrase Option I to read: „Marine Genetic Resources, including fish insofar as it is collected for the purposes of being subject of research into their genetic properties.“

Point (4) – We consider it necessary to ensure that fish which falls under fisheries management regimes does indeed fall outside of the scope of the BBNJ Instrument. We therefore support Option I under Point (4), and Option A under letterpoint (a), negatively prescribing that the Instrument does not apply to the (use of) fish and other biological resources as a commodity. We do not see the need for Option 1 and

Option 2 under Option A, as adding quantitative standard like threshold amount or standards like “value for its genetic material“ does not seem to add any clarity to the question of fish as commodity.

*Temporal scope:* We are fine with thrust of Option I under Point (5), but agree with other delegations that clarity might be needed on the exact meaning of entry into force and whether it refers to the entry into force of the instrument as a whole or for individual parties to it, agreeing that the latter meaning should prevail.

#### Part 3.2 on Access and benefit sharing

We are flexible on this part, but like some other delegations, we believe that the first paragraph under Option I is redundant in this part of the instrument and would be better placed elsewhere, in a General part or in Part 2 on International Cooperation, which has very similar language. We therefore support Option II, but would not oppose to the merging of the remaining parts of Option I (i.e. letterpoints (a) and (b) on special requirements of developing countries and special circumstances of SIDS) with Option II.

#### Part 3.2.1 on Access

We are very hesitant to impose restrictions on the Access to MGRs of areas beyond national jurisdiction. We share the views stated by some delegations, that UNCLOS allows for free access and we do not like to undermine UNCLOS by reviewing that approach. We also do not like to hamper scientific research in any way. We therefore can support Option I in this part.

However, in order to lay the foundations for a non-monetary benefit sharing system we could consider looking further into some form of notifications as described in Point (5) of the document, i.e. a prior notification to a BBNJ body with relevant information, coupled with a notification of collection of MGRs as a first step of the sharing of non-monetary benefits. However, this should never be a condition for access, as access should continue to be guided by the provisions of UNCLOS, this paragraph should simply impose an obligation for those parties that take advantage of that freedom to give notification.

Thank you, Madam Facilitator.